IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5362 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANUBHAI @ BABABHAI BHIMABHAI DESAI THRO' FATHER BHIMABHAI

Versus

COMMISSIONER OF POLICE

Appearance:

MR AM PAREKH for Petitioner

Mr.Premal Joshi, Ld.AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 11/02/2000

ORAL JUDGEMENT

The detenu has filed this petition under Article 226 of the Constitution of India as he has been detained by an order made by the respondent no.1 Commissioner of Police on 15.6.99 under the provisions contained in the Gujarat Prevention of Anti-Social Activities (for short `PASA'). The grounds of detention have been served and are filed alongwith the petition at Annexure C dated 15.6.99. From the grounds of detention, it clearly transpires that the Detaining Authority has come to the conclusion that the detenu is a dangerous person. Despite the fact that 2 serious offences have been registered against the detenu, he has continued his

activities of using dangerous weapons and beating innocent persons. He is in habit of robbing the people by show of dangerous weapons like gupti and knife. Because of his nefarious activities people residing in the said locality were not willing to come forward unless they were assured that their names will not be disclosed.

2. In the instant case, it is not necessary to examine the grounds of detention in detail to say that the order of detention is illegal or not, in as much as the continued detention of the detenu is bad and illegal as the representation forwarded by the petitioner has not been decided in accordance with law. In ground L, the petitioner has stated as under:-

> "l. The petitioner submits that he has requested the detaining authority by way of representation dated 17.6.99. But till today authority has not decided the said representation."

Despite the petition being filed taking the specific grounds, the respondents have not placed any material on record indicating that the representation has been disposed of in accordance with law. Thus in absence of this material it is required to be held that the continued detention is bad and illegal and the petitioner is required to be released forthwith, if not required in any other case. Accordingly, the petition stands allowed. Rule made absolute. No order as to costs.

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